

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13148 of 2004

Between:

Sri Vijayaram Transport, proprietary Concern, rep.by its Prop.M.Gopala Krishna,
Having its office at Opp.Prabhat Talkies, Mylavarapu Buildings,
Tadepalligudem.

..... PETITIONER

AND

1. A.P. State Warehousing Corporation, represented by its Managing Director, Nampally, Hyderabad.
2. Warehouse Manager, A.P. State Warehousing Corporation, Pedatadepalli, W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of mandamus, declaring the impugned action of the respondents in withholding the amounts of the petitioner in spite of the issuance of No-Dues Certificate and in the light of the representation of the petitioner as arbitrary, illegal, capricious, high-handed and violate all canons of law and justice and consequently direct the respondents to pay the amounts of the petitioner.

For the Petitioner: MR.T.S.ANAND, Advocate.

For the Respondents: MR.G.BHASKAR, Standing Counsel for Ware Housing Corporation.

The Court made the following:

ORDER:

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This writ petition is filed seeking a writ of Mandamus to declare the action of the respondents in withholding the amounts of the petitioner in spite of the issuance of “No Due Certificate” and in the light of the representation of the petitioner as arbitrary, illegal and consequently direct the respondents to pay the amounts to the petitioner.

The petitioner is a proprietary concern and authorised Handling and Transportation Contractors for the respondent-Corporation. There was a contract between the first respondent and the petitioner for a period of two years i.e., from 16-06-2001 to 06-11-2003 for loading or unloading the food-grains, fertilisers etc., from Railway Wagons, Trucks etc.,. As per the terms of the said contract, the petitioner paid Rs.2,00,000/- towards earnest money deposit and a

further sum of Rs.50,000/- towards security deposit by way of fixed deposits. The petitioner successfully completed the contract works and on 10-12-2003 "No-due Certificate" was issued by the second respondent stating that there is nothing due from the petitioner to the respondent-Corporation and recommended for refund of the earnest money deposit and security deposit. While so, the first respondent withheld the said amount and also demanded a sum of Rs.1,78,216/- from the petitioner towards transit loss in transportation of rice in three trains to Karnataka State. Subsequently, the petitioner made an application on 27-06-2004 to the first respondent requesting to consider and refund the said deposits to him. But, the first respondent did not pass any orders on the said representation. The petitioner, therefore, approached this Court by way of filing the present writ petition.

Heard the learned Counsel for both the parties and at their request the writ petition itself is taken up for disposal at the admission stage and perused the material on record.

Admittedly, it is for the first respondent to pass appropriate orders on the representation dated 27-06-2004 made by the petitioner by taking into consideration the totality of the circumstances.

In the light of the facts and circumstances of the case, the first respondent is directed to pass appropriate orders on the representation dated 27-06-2004 made by the petitioner within a period of four weeks from the date of receipt of a copy of this Order and communicate the same to the petitioner.

The writ petition is accordingly disposed of at the admission stage. No order as to costs.

29-07-2004

Note:

Office to furnish CC in two days.

B/o

ghn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, A.P.State Warehousing Corporation, Nampally,

Hyderabad.

2. The Warehouse Manager, A.P. State Warehousing Corp. Pedatadepalli,

W.G.Dist.

3. Two CD copies.